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23 June 1986

MEMORANDUM FOR: Chief, Policy and Plans Staff, OS

25X1 FROM: [REDACTED]
Chief, Communications Division, OC

SUBJECT: Comments on Section VII, Presidential Report

REFERENCE: A. DCI/ICS-86-0840, 18 June 1986
B. OLL 86-0192, 21 January 1986
C. OC-0013-86, 7 January 1986

25X1 1. Reference A transmitted Section VII, Presidential Report
25X1 (a draft of legislative proposals prepared by [REDACTED]
[REDACTED] to members of the SIG-I Ad Hoc Legal Group. It
25X1 was sent to the Communications Security Division by the Policy
Branch of OS/PPS for comment. [REDACTED]

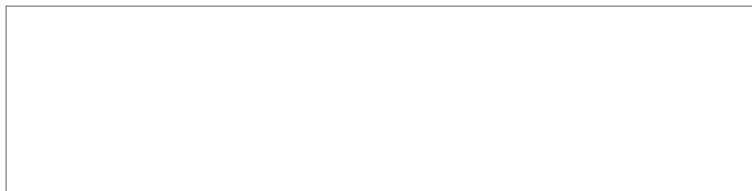
2. Our comments which follow are limited to item B. We defer to those who have expertise in the subject areas to address the other proposals. As we indicated in reference C, we believe the Secretary of Defense and the Director, National Security Agency have the requisite authority under NSDD-145 to promulgate rules concerning the development, manufacture and delivery of cryptographic equipment. Moreover, that authority is reinforced by Executive Order 12333 of December 1981 which directs that the Secretary of Defense be responsible for: "Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government." Notwithstanding that, reference C, which reflects the coordinated Agency position on the subject, deferred to the Department of Defense regarding the need for legislation in the cryptographic/communications security area. [REDACTED]

25X1 3. The [REDACTED] draft assures us that a legislative
25X1 proposal on the subject is in the final stage of drafting, has the full coordination of the Intelligence Community and is consistent with the DCI's responsibility to protect intelligence sources and methods. The last legislative proposal we saw on the subject was a bill drafted by David Addington, Assistant Counsel to the House Permanent Select Committee on Intelligence. That bill contained no provisions acknowledging DCI authorities--
25X1 presumably it has been scrapped or rewritten. [REDACTED]

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4. It remains a matter of some concern to us that no matter how carefully the Executive Branch might construct proposed legislation, there is no guarantee that the bill will emerge from the legislative process intact. Since the Agency is not prepared to oppose the bill, it must be prepared to lobby vigorously to retain or expunge, as appropriate, any language which affects DCI authorities.



cc: Office of Congressional Affairs